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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,066	03/10/2000	Timothy P. Tully	1314.1058-0001	4462

21005 7590 09/15/2003

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

0903

DATE MAILED:

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Commissioner for Patents

NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR 1.192(c)

The brief does not contain a concise explanation of the invention defined in the claims involved in the appeal, which refers to the specification **by page and line number**, and to the drawing, if any, by reference characters as required by 37 CFR 1.192(c)(5).

Summary of Invention section of the Appeal Brief merely refers to the claims wherein the elements described in the section are found. However, 37 C.F.R. 1.192 (c) (5) requires the summary include references to the specification by page and line number. (5) Summary of Invention. A concise explanation of the invention defined in the claims involved in the appeal. This explanation is required to refer to the specification by page and line number, and, if there is a drawing, to the drawing by reference characters. Where applicable, it is preferable to read the appealed claims on the specification and any drawing. While reference to page and line number of the specification may require somewhat more detail than simply summarizing the invention, it is considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application.

Applicant is advised that the Declaration filed with the Appeal Brief will not be considered by the examiner because Applicant has not provided good and sufficient reasons why the Declaration was not submitted earlier.

37 CFR 1.195. Affidavits or declarations after appeal.

Affidavits, declarations, or exhibits submitted after the case has been appealed will not be admitted without a showing of good and sufficient reasons why they were not earlier presented. Affidavits or declarations filed with or after the filing of a notice of appeal but before jurisdiction passes to the Board (see MPEP § 1210) will be considered for entry only if the appellant makes the necessary showing under 37 CFR 1.195 as to why they were not earlier presented. Authority from the Board is not necessary to consider such affidavits or declarations. Affidavits or declarations filed after a final rejection and prior to a notice of appeal are handled as provided in MPEP § 715.09, § 716, and § 716.01.

Appellant is required to comply with provisions of 37 CFR 1.192(c).

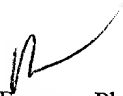
To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 1.192(c) within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BJ Forman whose telephone number is (703) 306-5878. The examiner can normally be reached on 6:30 TO 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (703) 308-1119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 308-8724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.


BJ Forman, Ph.D.
Primary Examiner
Art Unit: 1634

September 11, 2003